

Remarks

The Office Action mailed June 7, 2005 has been carefully reviewed. Reconsideration of this application as amended and in view of the following remarks is respectfully requested. Claims 1-16 are in the application. Claims 1-10 stand "withdrawn" from consideration as drawn to a non-elected invention. The claims presented for examination in this application are claims 11-16.

Claim Objections

In numbered paragraph 3 of the Office Action mailed June 7, 2005, claims 11 and 14 were object to because of enumerated informalities. Applicants have amended claims 11 and 14 to correct the enumerated informalities and believe this amendment overcomes the objections in numbered paragraph 3 of the Office Action mailed June 7, 2005.

The recitation "produced by the method" in claim 11, line 2 was objected to and the statement was made the recitation "produced by the method" should be deleted. The recitation "produced by the method" in claim 11, line 2 has been deleted by this amendment.

The recitation "microchanel" in claim 11, line 8 was objected to in numbered paragraph 3 of the Office Action mailed June 7, 2005. The recitation "microchanel" in claim 11 has been corrected to read "microchannel" as required in numbered paragraph 3 of the Office Action mailed June 7, 2005.

The recitation "an annealed open microchannel that has been produced by annealing" in claim 11, line 8 was objected to as redundant. The recitation has been amended to delete "that has been produced by annealing" as recommended in numbered paragraph 3 of the Office Action mailed June 7, 2005.

The recitation "said etched substrate and said annealed substrate are selected from the group consisting of glass members, glass and silicon members,

glass and polymer members" and the further recitation "and members selected from the group of glass, silicon and polymers" in claim 14 was objected to as redundant. The recitation has been amended to read "said etched substrate and said annealed substrate are selected from the group consisting of glass, silicon, and polymers, and mixtures thereof." as recommended in numbered paragraph 3 of the Office Action mailed June 7, 2005.

Applicants believe that the amendments to claims 11 and 14 correct the enumerated informalities and that the amendments overcome the objections in numbered paragraph 3 of the Office Action mailed June 7, 2005.

#### 35 USC 102(e) Rejection

In numbered paragraph 5 of the Office Action mailed June 7, 2005, claims 11 and 13-15 were rejected under 35 USC 102 (e) as allegedly being anticipated the Krulevitch et al reference (U.S. Patent No. 6,437,551). The statement was made "this rejection under 35 USC 102 (e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriated showing under 37 CFR 1.131."

#### Applicants' Response to 35 USC 102(e) Rejection

Enclosed is a declaration, "DECLARATION UNDER 37 CFR § 1.132 - Declaration by Eddie E. Scott - Disclosed but not Claimed Invention Derived from Inventors." Applicants submit that the enclosed declaration overcomes the rejection under 35 USC 102 (e). The enclosed declaration shows that the disclosed but not claimed invention in the Krulevitch et al reference was derived from the Inventors Peter Krulevitch, Julie Hamilton, and Harold Ackler of this application and is thus not the invention "by another." The Inventors Peter Krulevitch, Julie Hamilton, and Harold Ackler of the subject patent application are also named as inventors in the Krulevitch et al reference along with seven other inventors. The

disclosed not claimed invention in the Krulevitch et al reference was the subject matter of a RECORD OF INVENTION document that was signed by the Inventors Peter Krulevitch, Julie Hamilton, and Harold Ackler before the November 1, 2000 filing date of the Krulevitch et al reference. The Inventors Peter Krulevitch, Julie Hamilton, and Harold Ackler are the inventors of the invention defined by Applicants' claims 11 and 13-15 of the subject application. The seven other inventors listed in the Krulevitch et al reference are not the inventors of the invention defined by Applicants' claims 11 and 13-15 of the subject application.

Applicants believe that the enclosed declaration overcomes the rejection under 35 USC 102 (e) and that this amendment overcomes the rejection in numbered paragraph 5 of the Office Action mailed June 7, 2005.

#### 35 USC 103(a) Rejection

In numbered paragraph 7 of the Office Action mailed June 7, 2005, claims 12 and 16 were rejected under 35 USC 103 (a) as allegedly being unpatentable over the Krulevitch et al reference (U.S. Patent No. 6,437,551).

#### Applicants' Response to 35 USC 103(a) Rejection

Applicants submit that the Krulevitch et al reference is not a valid 35 USC 103 (a) reference against Applicants' claims 12 and 16. Applicants submitted a declaration under 37 CFR 1.130 which was filed 8/26/2004. Applicants submit that the declaration under 37 CFR 1.130 which was filed 8/26/2004 removes the Krulevitch et al reference as a 35 USC 103 (a) reference. Further, Applicants have enclosed a declaration, "DECLARATION UNDER 37 CFR § 1.132 - Declaration by Eddie E. Scott - Disclosed but not Claimed Invention Derived from Inventors." Applicants submit that the declaration, "DECLARATION UNDER 37 CFR § 1.132 - Declaration by Eddie E. Scott - Disclosed but not Claimed Invention Derived from Inventors" removes the Krulevitch et al reference as a 35 USC 103

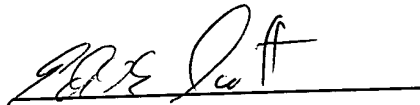
(a) reference. Applicants have also previously submitted a terminal disclaimer for the Krulevitch et al reference.

Applicants believe that the declarations described above overcome the rejection under 35 USC 103 (a) and that this amendment overcomes the rejection in numbered paragraph 7 of the Office Action mailed June 7, 2005.

SUMMARY

The undersigned respectfully submits that, in view of the foregoing amendments and the foregoing remarks, the issues in the Office Action dated June 7, 2005 have been fully addressed and overcome. The present application is believed to be in condition for allowance. It is respectfully requested that this application be reconsidered, that the claims be allowed, and that this case be passed to issue. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to call the undersigned attorney at (925) 424-6897.

Respectfully submitted,



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